

### REMARKS

This is in response to the Office Action dated October 28, 2008. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

By the above amendments, claims 1 and 6 are amended to more clearly distinguish the present invention over the applied prior art references. Thus, claims 1-9 and 11 are currently pending in the present application.

On pages 2-5 of the Office Action, the claims are rejected over the prior art as follows:

Claims 1-8 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Uno et al. (U.S. Patent No. 6,449,239) in view of Ishimaru et al. (U.S. Patent Application Publication No. 2002/0006580); and

Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Uno et al. in view of Ishimaru et al. and further in view of Ishibashi et al. (JP 01-286136).

It is submitted that the present invention, as embodied by amended claims 1 and 6, is clearly allowable over the Uno, Ishimaru and Ishibashi references for the following reasons.

As noted above, claims 1 and 6 have been amended to more clearly distinguish over the applied prior art references. In particular, claim 1 has been amended to recite that the second dielectric layer contacts the first dielectric layer. Also, claim 6 has been amended to require that

In the present invention, the first dielectric layer made of niobium oxide is formed to ensure the accuracy of the thickness of the second dielectric layer, which is made of titanium oxide. As described in the specification of the present application (page 19, lines 4-7), a film forming rate (deposition rate) of titanium oxide is significantly influenced by the presence of

oxygen removed from the substrate during film formation, which increases variations of the thickness of the titanium oxide layer.

In contrast, as described in the specification of the present application (page 19, lines 8-12), a film forming rate (deposition rate) of niobium oxide is not significantly influenced by the presence of oxygen. Therefore, variations in the thicknesses of a titanium oxide layer are reduced by forming the niobium oxide layer between the substrate and the titanium oxide layer. In addition, the niobium oxide layer acts as a transmittance adjusting layer together with the titanium oxide layer by contacting the titanium oxide layer. Therefore, according to the present invention, the transmittance adjusting layers can be formed with small variations in thickness. As a result, optical information recording mediums, having small variations of disk characteristics, can be provided.

On page 3 of the Office Action, the Examiner takes the position that the multi-layer recording medium, shown in Fig. 8 of Uno et al., includes a substrate 100, a dielectric layer 106 (corresponding to first dielectric layer), a thermal diffusion layer 108 (corresponding to the second dielectric layer), and a recording layer 204 (corresponding to first recording layer). However, claims 1 and 6 require that the second dielectric layer contacts the first dielectric layer. In Uno et al. the dielectric layer 106 is separated from the thermal diffusion layer 108 by a "reflective layer" 107 (see col. 11, lines 32-36). Accordingly, claims 1 and 6 are clearly allowable over the Uno et al. reference. The modifying references, i.e. Ishimaru and Ishibashi, do not disclose the features that are omitted in the Uno et al. patent. Therefore, it is submitted that claims 1 and 6 are clearly allowable over the prior art of record. Further, claims 2-8 and 11

depend from one of the allowable independent claims, and are therefore allowable at least by virtue of their dependencies.

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

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